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FAQs - Sales and Use Tax on Sales of Alcoholic Beverages**1. What is the sales and use tax rate on sales of alcoholic beverages in Maryland?**

Unlike sales of other types of tangible personal property and taxable services that are taxed at a 6% rate, the sales and use tax is imposed at a 9% rate on the taxable price of alcoholic beverages. The 9% rate on sales of alcoholic beverages replaces the 6% rate and is not in addition to that rate.

2. What is the effective date for the 9% rate on sales of alcoholic beverages?

The 9% rate is effective for sales on and after July 1, 2011.

3. Is the 9% rate calculated in the same way as the 6% sales and use tax on sales of other types of products?

No. By statute, the 6% sales and use tax is imposed on a bracketed basis. The amount of tax due is determined by the sale price in relation to the statutorily imposed brackets. The amount of tax increases one cent from one bracket to the next with 6 cents due on each exact dollar. The 9% sales and use tax is a flat rate. This means that when the tax calculation results in an amount between two whole pennies, the tax is rounded off. The tax computation must be carried to the third decimal place, and the tax then must be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four, and rounds down whenever the third decimal place is less than or equal to four. For example, if the taxable price of the alcoholic beverage is \$8.24 the tax would be \$0.74 (\$8.24 times 9% = \$0.742). If the taxable price of the alcoholic beverage is \$8.29 the tax would be \$0.75 (\$8.29 times 9% = \$0.746).

4. How do I report the 9% tax on my sales and use tax return?

You must report the tax you charged on sales of alcoholic beverages separately from the tax imposed on sales of other items. Effective July 2011, the sales and use tax return will include separate lines for tax imposed on sales at the 6% rate and tax imposed on sales at the 9% rate. The revised sales and use tax return will also have separate lines for reporting tax on purchases at each rate as well.

5. I currently file my sales and use tax returns and remit via EFT ACH (Electronic Funds Transfer Automated Clearinghouse). Will I still be able to file and pay my sales and use tax via ACH?

Businesses that have sales and/or purchases subject to the 9% rate will no longer be able to file and remit via the ACH Credit Option or the ACH Debit Option. Instead, you may file and pay electronically through **bFile**, our free online service for businesses.

Businesses that only have sales and/or purchases subject to the 6% rate may continue to file sales and use tax returns and remit payment via ACH (either Credit or Debit Option).

If you want to pay an outstanding tax liability by credit card, you can do so online at www.officialpayments.com or by calling 1-800-2PAYTAX (1-800-272-9829).

6. What products are subject to the 9% tax rate?

The 9% rate applies to sales of alcoholic beverages as defined in Tax-General Article §5-101(b). This includes sales of beer, distilled spirits, and wine, as well as any beverage or cocktail that may contain a mixture of both alcoholic and non-alcoholic components, including an alcoholic mixed drink, a frozen alcoholic cocktail, an alcoholic coffee drink, and a gelatin shot containing an alcoholic beverage.

7. Are there products that contain alcohol that are not subject to the 9% rate?

Yes. Only products that are fit for beverage purposes and contain one-half of 1% or more of alcohol by volume are subject to the 9% rate. Other products, such as cooking wine and cooking sherry, as well as vanilla and rum extracts and similar items, are not subject to the 9% tax as they are not intended for beverage purposes. There are many personal care products and cleaning products that contain alcohol as well; however, these items are not included in the definition of alcoholic beverage and therefore are not subject to tax at the 9% rate.

8. What about the sale of mixers, such as grenadine, lime juice, or other flavoring, that are used as a component in an alcoholic cocktail?

If you buy a mixed drink that contains both alcoholic and non-alcoholic components, the sale of that beverage will be subject to tax at the 9% rate. However, the 9% tax does not apply to the sale of a bottle of grenadine or similar flavoring or mixer on its own that does not contain one-half of 1% or more of alcohol by volume.

9. How are sales and/or purchases by a tax exempt organization affected?

Effect on sales by exempt organizations:

Sales of alcoholic beverages made by specific types of organizations listed in **Tax General Article §11-204(b)** are also exempt from the **9%** tax on alcoholic beverages.

Effect on purchases by exempt organizations:

Maryland sales and use tax exemptions apply to all purchases for use by the exempt organization, regardless of the applicable tax rate. Therefore, your organization's purchases of alcoholic beverages made to carry on the organization's work are exempt from the 9% tax on alcoholic beverages.

10. I own a restaurant and have an alcoholic beverage license. How do I charge tax on sales that include both alcoholic beverages and other taxable items?

The tax must be separately calculated on sales of alcoholic beverages at the 9% rate and on sales of food, non-alcoholic beverages, and other merchandise at the 6% rate. The 9% tax amount must be listed separately from the 6% tax amount on the bill of sale.

11. If I sell food and beverages to groups of more than 10 persons at my restaurant and I impose a mandatory gratuity charge, how should I charge the tax?

If your sales include alcoholic beverages as well as other items, you must apportion the charge for the mandatory gratuity between the two categories. For example, if the total charge amounts to \$300, and of that amount \$200 is for sale of food and non-alcoholic beverages and \$100 is for the sale of alcoholic beverages, then 2/3 of the amount of the gratuity is subject to the 6% tax rate and 1/3 is subject to the 9% tax rate. In this example, if the gratuity charged is \$45, the 6% rate on the gratuity would be \$1.80 (2/3 times \$45 times 6% = \$1.80) and the 9% rate on the gratuity would be \$1.35 (1/3 times \$45 times 9% = \$1.35). The bill, therefore, would reflect total tax at 6% of \$13.80 (\$230 at 6%) and total tax at 9% of \$10.35 (\$115 at 9%).

12. I heard that Maryland will allow direct shipment of wine from certain vendors beginning July 1, 2011. How will the new 9% tax on the sale of alcoholic beverages apply to this situation?

In order to be authorized to make direct wine shipments to Maryland residents, the law requires that the vendor be issued a direct wine shippers permit, and also requires that the vendor comply with existing tax laws, including the requirement to collect sales and use tax. Therefore, the vendor will be required to charge sales and use tax at the rate of 9% on sales of wine to Maryland residents. If the vendor imposes a separately stated shipping charge, that amount will not be subject to tax. However, if the shipping charge is not separately stated, or if the shipping charge includes a handling charge, whether that shipping and handling charge is separately stated or not, then the entire amount will be considered to be part of the taxable price of wine, and the 9% tax will apply to the whole charge.

13. I sometimes have my local liquor store special order an alcoholic beverage for me that they normally do not carry in inventory. The store charges me for the amount that it costs to have the item delivered to the store (inbound freight charge) and includes that amount in the taxable price of the product. Is this correct?

Yes. An inbound freight charge is part of taxable price. If the inbound freight charge is imposed on the sale of an alcoholic beverage, then the vendor must collect tax on the price that includes the inbound freight charge, whether separately stated or not.

14. How will the sales and use tax apply to sales of gift baskets that include alcoholic beverages as well as other items?

You may apportion the sales price between the alcoholic beverages and the other merchandise and charge the 9% sales and use tax on the taxable price of the alcoholic beverages and the 6% sales and use tax on the price of the other items. If the basket includes non-taxable merchandise as well, and you allocate the sales price among the three categories of merchandise (alcoholic beverages, taxable merchandise, non-taxable merchandise), then you may exclude the non-taxable items from the taxable price. However, if you charge a lump-sum price for the gift basket, and you do not apportion the sales price among the categories of items, you must collect the sales and use tax at the higher 9% rate on the entire price of the basket.

15. I am a caterer and I provide a detailed listing of all of the items that I use in catering an event for my customer. Included in my itemized bill are charges for the food and beverages that I provide, as well as charges for the equipment and supplies that I use and the charges for the servers and the bartenders. How do I apply the different tax rates to my operation?

Itemized charges for equipment, supplies and labor that are directly and predominantly related to the sales of alcoholic beverages should be taxed at the 9% rate. Itemized charges for equipment, supplies and labor that are directly and predominantly related to the sales of food and non-alcoholic beverages should be taxed at the 6% rate.

16. I am a caterer and I either charge a per-person amount or just issue a lump-sum bill. If I am including alcoholic beverages in my sales, how do I apply the tax?

If you do not itemize your bill in the manner discussed in Question 15 and instead elect to bill a lump-sum price for the entire bill or per-person charge, you must charge the higher 9% tax rate on the entire bill.

17. I have a signed contract for a catered event that will take place on August 14, 2011. What tax rate applies to the alcoholic beverages that will be sold with this event?

Alcoholic beverage sales for specific events for which contracts are fully executed **prior to July 1, 2011** are subject to the **6%** sales and use tax. Alcoholic beverage sales for specific events for which contracts are signed and executed **on or after July 1, 2011** are subject to the **9%** sales and use tax.

18. I have contracted for the right to provide all catering services at a venue from January 1, 2011 through December 31, 2011. The price, amounts of food and beverages, and other catering specifics are determined on an event-by-event basis and are not included in the contract to

provide catering services for the year. What sales and use tax rate will apply to my sales of alcoholic beverages beginning on July 1, 2011?

If the contract for the specific event is fully executed **before July 1, 2011** and contains all material terms such as price, quantities, selections of food and beverages (alcoholic and non-alcoholic), and the names of the parties to the contract, the tax rate on the taxable price of alcoholic beverages is 6%.

If the contract for the specific event is fully executed on or **after July 1, 2011**, and it contains all material terms, such as price, quantities, selections of food and beverages (alcoholic and non-alcoholic), and the names of the parties to the contract, then the tax rate on the taxable price of alcoholic beverages is 9%.

19. When must the caterer report and pay to the Comptroller the tax due on an executed catering contract?

The tax, whether at the rate of 6% or 9%, must be charged by the caterer at the time the contract is executed. The caterer must then report and pay the tax to the Comptroller by the required due date.

20. I offer a Champagne Brunch at my restaurant on weekends. The customers are charged a fixed amount that allows them a buffet-type all-you-can-eat event and one or more alcoholic beverages. How do I apply the tax to this situation?

You must apportion your sales price between the taxable price of the alcoholic beverages and the taxable price of the food and non-alcoholic beverages and charge the tax accordingly. If you do not separately state the charges subject to the different rates, you must charge the higher 9% rate on the entire charge to the customer.

21. I offer a meal with a complimentary alcoholic beverage at my restaurant on Sunday mornings. How do I apply the tax to this situation?

The cost of the meal and any other related taxable charges will be taxed at the 6% rate. You must pay the 9% sales and use tax rate on your purchase of any alcoholic beverages that are provided to customers at no charge.

22. If I buy a bottle of wine or other alcoholic beverage while visiting another state, will I owe the 9% tax when I bring that bottle into Maryland?

That depends. If you pay a sales tax to the vendor in the state where you made the purchase and the rate of that tax is equal to or greater than the 9% rate, then you will not owe any additional tax when you bring the item into Maryland. However, if you are not charged a sales tax on your purchase, or if the amount of tax you pay is less than 9%, you will owe Maryland tax on the difference between the rate you paid to the other state and the 9% Maryland rate. You should also be aware that if you bring alcohol in excess of the quantity limitations specified in [Tax-General Article §5-104\(c\)](#) you will also owe the alcoholic beverage tax in addition to the sales and use tax.

23. I own a liquor store and in addition to sales of alcoholic beverages and other merchandise I rent beer kegs and taps. I charge an amount for the beer contained in the keg and then I charge a deposit to ensure that the equipment is returned. When the equipment is returned, the deposit is refunded in full to the customer. However, sometimes the customer does not return the equipment and I retain the deposit as compensation. How will the 9% tax on the sale of alcoholic beverages apply to my situation?

You must charge the 9% sales and use tax on the sale of the beer and on any rental charge that you impose on the lease of the keg and related equipment. The deposit is not subject to sales and use tax. However, if the equipment is not returned and you retain the deposit as payment for the equipment, the deposit will be considered to be part of the taxable price of the alcoholic beverage and is then subject to the 9% sales and use tax.

24. How will the 9% tax apply to events such as wine-tasting or wine festivals, where I am charged a fixed admission that allows samples at no extra charge?

This will depend on whether the charge for entry is truly an "admission" charge as opposed to being a charge for the sale of the wine. If you are allowed entry to the venue without payment of any charge, and the only payment collected is from those who participate in the tastings, then the charge will be considered to be a sale of an alcoholic beverage and the 9% sales and use tax will apply. On the other hand, if everyone has to pay the admission in order to gain entry into the venue, regardless of whether they participate in the tastings or not, then the sales and use tax does not apply to the sale of admission tickets. However, depending on the jurisdiction, the gross receipts from the sale of the tickets may be subject to the admissions and amusements tax. In this case, the entities that are providing the wine tastings are considered to be the consumer of the products, and must pay the 9% tax on the cost of the wine.

25. I operate a night club that provides live music and I make sales of food and beverages in connection with the entertainment. How do I apply the admissions and amusement tax on sales of alcoholic beverages that are subject to the 9% sales and use tax rate?

Because a sale that is subject to both sales and use tax and admissions and amusement tax is capped at 11%, you must charge the 9% sales and use tax on the sale of the alcoholic beverages, and apply the admissions and amusement tax to the gross receipts from the sale of alcoholic beverages at a rate no higher than 2%, even if the jurisdiction normally imposes a higher rate. Your gross receipts from sales of food and non-alcoholic beverages that are taxed at a 6% sales and use tax rate are subject to admissions and amusement tax at a rate no higher than 5% due to the cap.

26. I operate a dinner theater where I charge an admission that allows entry to the show along with a meal and two free alcoholic drinks. How do I apply the tax to my business?

You are considered to be the consumer of the food and drinks that you provide and you must pay any applicable sales and use tax on your cost of the food and beverage. You must pay the 9% sales and use tax



on your purchase of any alcoholic beverages that are provided to customers at no charge. The gross receipts on your ticket sales may be subject to the admissions and amusement tax depending on where you are located.